

**OPINION**  
**66-478**

January 19, 1966 (OPINION)

Mr. Harold G. Vavra

Director

Aeronautics Commission

RE: Weather Modification - Unorganized Townships - Expenditures

This is in reply to your letter of January 11, 1966, requesting our opinion relating to Weather Modification Laws.

You call to our attention the provision of section 58-03-07 of the North Dakota Century Code and the addition of section 19 thereto in the 1965 Supplement to the North Dakota Century Code so that insofar as here applicable same provides:

POWERS OF ELECTORS. The electors of each township have the power at the annual township meeting:

9. To authorize the expenditure of township funds for weather modification activities."

You call to our attention the fact that in many counties in this state there are both "organized" and "unorganized" townships. You ask our opinion as to whether the county commissioners may contract and agree to pay for weather modification activities on behalf of unorganized townships in a county upon notice or a request received from said townships in such amounts that are consistent with the expenditures for such services in other organized townships in the same county.

Section 58-03-07 of the North Dakota Century Code constitutes, generally, the statutory specification of the powers of electors of each township at the annual township meeting. Generally speaking, in addition to other functions, such statutory provision gives the electors at such meeting power to authorize various expenditures and tax levies including, pursuant to the above-quoted recent amendment, power to authorize expenditure of township funds for weather modification activities. Generally speaking, also, section 58-06-01 of the North Dakota Century Code gives the board of township supervisors the power to carry out the activities authorized by the township electors at the annual township meeting. Obviously, an unorganized township has neither township levies or expenditures in unorganized townships. There is one notable exception to this however. Section 57-15-21 of the North Dakota Century Code provides:

TAX LEVIES IN UNORGANIZED TOWNSHIPS. The board of county commissioners shall have the same jurisdiction in an unorganized township as the board of township supervisors has in an organized township. Such board may levy taxes in an

unorganized township for road and bridge purposes and shall make such levy on the fourth Tuesday in July in each year, or within ten years thereafter. Such levy shall have no relation to nor effect upon the county taxes for any purpose levied by the board of county commissioners."

It would thus appear that generally the Board of County Commissioners has the same jurisdiction in unorganized territory as a board of township supervisors, except that the board of township supervisors is required to have authorization from the township electors for levies and expenditures, whereas as to road and bridge purposes, the Board of County Commissioners in unorganized territory gets its authority for the levy directly from this statute. There is no similar exception with regard to weather modification activities, thus we must conclude that a township levy for weather modification purposes must be initiated as provided in section 58-03-07, subsection 19 of the North Dakota Century Code, as amended to date, by the electors of the township at the annual township meeting. We note further that the general weather modification statutes (chapter 2-07 of the 1965 Supplement to the North Dakota Century Code) authorize a countywide levy upon a vote of the people only.

We find no other method for the electors of an unorganized township to communicate their wishes for township weather modification service to any tax levying authority other than that provided by the due processes of section 58-03-07 of the North Dakota Century Code. On such basis it is our opinion that weather modification levies and expenditures on the area of a township cannot be made unless such township is an organized township.

HELGI JOHANNESON

Attorney General